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**OPINION OF THE PUBLIC ACCESS COUNSELOR**

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KATHLEEN J. TRETTER,  
*Complainant,*

v.

LUCE TOWNSHIP,  
*Respondent.*

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Formal Complaint No.  
18-FC-148

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Luke H. Britt  
Public Access Counselor

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BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging the Luce Township Trustee, and Advisory Board violated the Open Door Law.<sup>1</sup> The Township did not respond despite an invitation to do so on January 7, 2019. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on December 31, 2019.

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<sup>1</sup> Ind. Code §§ 5-14-1.5-1 to -8

## **BACKGROUND**

This case is about whether a township board must give individualized notice of a public meeting to the media if they request such notice the prior year.

In December 2017, the *Spencer County Leader* sent a notice to the Luce Township Board requesting individualized notice of Township Board meetings.

On December 10, 2018, the Leader contends the Board met without providing individualized notice, however, the Township did post notice at the meeting location. This meeting took place to make appointments to the Luce Township Regional Sewer District Board.

The Leader contends the meeting is illegal and asks this Office to issue an order declaring the appointments to the Sewer District Board void.

The Township was advised of this formal complaint on or about January 7, 2019 but did not respond.

## **ANALYSIS**

At issue in this case is whether the actions of the Luce Township Board is in compliance with the law.

### **1. The Open Door Law**

It is the intent of the Open Door Law (“ODL”) that the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed. *See* Ind. Code § 5-14-1.5-1. Except as provided in section 6.1, the ODL requires all meetings of the governing bodies of public agencies to be

open at all times to allow members of the public to observe and record the proceedings. Ind. Code § 5-14-1.5-3(a).

Furthermore, public notice of date, time and place of any meetings or executive sessions shall be given forty-eight hours before the meeting. Ind. Code § 5-14-1.5-5(a). Specific to this case, individualized notice must be given to the media by US mail, email, or fax as well if the news media submits a request by December 31 of the prior year. Ind. Code § 5-14-1.5-5(b)(2).

If the Spencer Leader did indeed file a written request to the Township in 2017, then it was entitled to individualized notice of each meeting held in 2018.

While this Office cannot prove definitively if this was the case, it appears as if the Township's meeting was not fully compliant with the Open Door Law.

The Complainant seeks to void the actions of the Board at the December 10, 2018 meeting, however, this Office does not have the authority to do so. Should the Leader choose to file an action in local circuit or superior court, a trial court judge could issue such an order, but only after considering several factors, the most important of which is the prejudicial harm done to the public by the non-compliance. Ind. Code § 5-14-1.5-7(d).

Since the notice was posted at the meeting location, it is unlikely a court would overturn action taken at the meeting for public interest reasons. Not to excuse the noncompliance of the Township, but this does appear to be a technical violation.

It is a violation nonetheless and should be remedied going forward.

### **CONCLUSION**

Based on the foregoing, it is the opinion of the Public Access Counselor that the Luce Township Board of Trustees failed to provide individualized notice to the news media in violation of the Open Door Law.

A handwritten signature in black ink, appearing to read 'LH Britt', with a stylized flourish at the end.

Luke H. Britt  
Public Access Counselor